

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA

v.

DANIEL RILEY

Case Number 1:07-cr-00189-GZS

RENEWAL OF MOTION TO COMPEL RETURN  
OF PERSONAL EFFECTS IN THE POSSESSION  
OF THE PLAINTIFF

As per the court's November 1, 2010 order, Riley renews his motion to return and transfer all personal effects, as listed below, to my brother William Riley or Joseph Haas. All appeals have been exhausted.

As it stands the U.S.A holds no right, title or interest in any of the effects listed. Further, at this point in time, none of the effects listed has ever been forfeited; and no rule or statute exists to forfeit said effects.

The U.S.A stated in their October 29, 2010 motion they would return all non-forfeited property, which I may legally possess. The only effects the U.S.A can possibly be referring to, with regards to possession, is the ammunition. Any attempt by the U.S.A. to keep this ammunition would be a violation of the Fifth Amendment's TAKING CLAUSE, because no [due] process is available to forfeit them.

And as far as the "possession" goes the District of New Hampshire has flat out rejected transfer of convicted felon's interest in property [does not] amount to constructive possession, please see U.S.A v Brown, 2010 DNH 65 where Chief District Judge S. McAuliffe stated:

"I reject the idea that firearms [in this case ammunition] lawfully owned must, following the owners unrelated felony conviction, sit wherever they maybe, unalienable and wasting not subject to forfeiture, not subject to confiscation as contraband, and not subject to disposition by the owner, or by anyone else, or by the court for the owner's benefit. I also reject the notion that such property is subject to government confiscation and destruction in the absence of due process or payment of just compensation."

Judge McAuliffe also explained that constructive possession does not apply to the minimal exercise of a property transfer.

LIST OF EFFECTS POSSESSED BY U.S.A

- |   |   |
|---|---|
| A. one press pass                               | Q. eleven rounds .50 cal. ammo                            |
| B. one Hewlett Packard Pavilion A1410n computer | R. twenty nine boxes 20/box 7.62x39                       |
| C. one video recorder - Sony Handy Cam          | S. thirty eight boxes 6/box 12 ga.                        |
| D. one video recorder - Panasonic               | T. two boxes 30/box 20 ga.                                |
| E. one digital camerea - Panasonic              | U. two cases 1,000/case 7.62x39 cal.                      |
| F. one hand held audio recorder - Panasonic     | V. Five rounds 16 ga                                      |
| G. one hand held audio recorder - unknown brand | W. two hundred seventy three loose rounds of 7.62x39 cal. |
| H. three soft shell gun cases                   | X. other assorted ammo both rifle and shotgun             |
| I. two hard shell gun cases                     |   |
| J. one ammo belt                                |   |
| K. one 75 round magazine 7.62x39 cal.           |   |
| L. six 20 round magazines .308 cal.             |   |
| M. numerous assorted gun parts                  |   |
| N. six 5 round magazines 7.62x39 cal.           |   |
| O. three 75 round drums 7.62x39 cal.            |   |
| P. thirty two 30 round magazines 7.62x39 cal.   |   |

WHEREFORE: Riley moves this court to order the U.S.A to return to him all the effects listed above.

VERIFICATION

28 USC § 1746

I verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 28<sup>th</sup> day of March, A.D. 2011.

For: /S/  
DANIEL RILEY

by: Daniel-John Riley  
Daniel-John Riley  
Affiant

Certificate of Service

I hereby certify that a copy of this MOTION TO COMPEL has been mailed via placing a true copy in the prison's mail system here at FCI Terre Haute, Indiana, first class mail to the following:

United States Attorney  
ATTN: US Attorney's Office  
53 Pleasant Street  
Concord, NH 03301

mailed on March 28, 2011

For: /S/  
DANIEL RILEY

by: Daniel-John Riley  
Daniel-John Riley